IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10602 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

LIYAKATMIYA AMINMIYA MALEK

Versus

STATE O GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR SAMIR DAVE, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/01/2001

ORAL JUDGEMENT

#. Challenge has been made by petitioner to the order of respondent No.2 dated 12.9.2000 ordering for detention of the petitioner under the Gujarat Prevention of Anti Social Activities Act, 1985.

#. Ms.Subhadra Patel, learned counsel for the petitioner raised one of the contentions that the statements of witnesses recorded in the registered case against the petitioner were not furnished to the petitioner.

#. The learned counsel for respondents, on instructions from the officer who is present in the court and verification from the record of the case, fairly concedes that the copies of those statements were not given to the petitioner.

#. In view of the statement made by learned counsel for respondents, it is a case where the petitioner has been deprived of his right to make effective representation to the authority, as conferred under Article 22(5) of the Constitution of India. As this petition deserves acceptance only on this ground, no other contentions raised need to be referred to and discussed.

#. In the result, this petition succeeds and the same is allowed and the order of detention of the petitioner dated 12.9.2000 is quashed and set aside. The petitioner - Liyakatmiya Aminmiya Malek, detenue, present at Central Prison, Ahmedabad, is hereby ordered to be set at liberty forthwith, if not required to be detained in any other case. Rule is made absolute. In view of the fairness with which the respondent-State has come before this court, no order as to costs.

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(sunil)